

REMARKS

Claims 1-25 are pending in the application.

Claims 1-25 have been rejected.

Reconsideration of the claims is respectfully requested.

I. CLAIM REJECTIONS – DOUBLE PATENTING

Claims 1-25 were provisionally rejected as unpatentable under the judicially created doctrine of double patenting over Claims 1-24 of copending Application No. 10/763,483, and claims 1-30 of Application No. 10/764,164.

Obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is *not* patentably distinct from the subject matter claimed in a commonly owned patent, when the issuance of a second patent would provide unjustified extension of the term of the right to exclude granted by a patent. MPEP § 804, p. 800-21 (8th ed., rev. 4, October 2005) (emphasis added). A double patenting rejection of the obviousness-type is analogous to the non-obviousness requirement of 35 U.S.C. § 103 except that the patent principally underlying the double patenting rejection is not considered prior art. *Id.* (citations omitted). The Examiner's provisional rejection is noted, and will be addressed when one or another of the applications has issued, at which time the distinctions between the present application and the actual issued claims can be fully analyzed.

CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 1-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6822973 to *Kelley et al.*, hereinafter “Kelley” in view of U.S. Publication No. 20050007973 to *Jang et al.*, hereinafter “Jang”. Claims 6-10 and 16-20 were also rejected as obvious over Kelley in view of Jang and further in view of U.S. Publication No. 20050014519 to *Sinnarajah et al.*, hereinafter “Sinnarajah”. The Applicant respectfully traverses the rejection.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP § 2142. Absent such a prima facie case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *Id.*

The independent claims require that a paging channel message comprises a first data field containing a first reduced slot cycle index (SCI) value to be used by a first selected mobile station. This feature is not taught or suggested by the art of reference, alone or in combination.

The Examiner alleges that Kelley teaches these limitations. Kelley does teach that the BS may send a “message” to a mobile station that may specify a reduced SCI timer value. There is no teaching or suggestion that this message is a paging channel message, as claimed. There is no teaching or suggestion of a paging channel message with a data field containing a reduced SCI value, as in each independent claim. Nor does any other art of reference teach these features, alone or in combination.

While this clear distinction was raised in a previous response, the Examiner has still failed to show this limitation in any cited reference. The Examiner has failed to show where, in Kelley, there is any teaching or suggestion of sending an SCI value in a data field of a paging channel message. The Examiner instead cites to 4 of the figures and a large portion of Kelley’s disclosure, and makes a baseless assertion that the claim limitation is taught there somewhere. The Examiner is respectfully requested to fulfill his burden by showing precisely where Kelley teaches a paging channel message that includes a first data field containing a first reduced slot cycle index (SCI) value, as required by the claims.

Of course, Kelley also doesn’t teach or suggest reduced slot cycle controller capable of causing said base station to transmit a paging channel message to said plurality of mobile stations, as claimed. The Examiner admits as much, and refers instead to Jang. Jang does teach sending a page message to a mobile station at paragraph 0040. Jang also teaches

[0039] In step 210, a communication session has been initiated and user traffic is communicated on a traffic channel between the BSC and the MS, such as a phone call, until the communication is terminated and resources released. During this period of time, the MS is in an active traffic state communicating over a traffic channel with the BSC. At step 220, the completed communication session is terminated by a termination message or signal. The termination message grants the SSC request and contains one or more data fields with a SCI value and a duration value for the length of time the SSC will be maintained. In the CMDA 2000 standards, the termination message includes a Release Order or other similar messages. After receipt, the MS enters Idle state and awakens to monitor communication according to the granted SCI value and specified shortened slot cycle.

As can be seen, Jang clearly teaches that the BSC can send a message with one or more data fields with an SCI value. Where Kelley does not teach on which channel such a message is sent. Jang clearly teaches that the communications are over the traffic channel. As such, Jang teaches away from the limitations of the claims. As this is the only specific teaching in the cited references of which channel can send such a message, it is also clear that any combination of Kelley and Jang also teaches away from the claim limitations.

Further, there is no teaching or suggestion in art of record, alone or in combination, of a paging channel message having a second data field operable to select a mobile station to use a reduced SCI timer value, as claimed. Jang certainly does not teach this, contrary to the Examiner's allegations, as any SCI value is not sent on a paging control channel.

Further, there is no teaching or suggestion in art of record, alone or in combination, of a second data field selects said first selected mobile station to use said first reduced SCI value by

associating a first one of said page records with said first reduced SCI value, as claimed. Kelly certainly does not teach this, contrary to the Examiner's allegations. The Examiner's "inherency" argument is flawed, since Kelly only describes a single mobile station, and the Examiner's reasoning that the BS inherently "knows" the MS 102 identity is not a necessary aspect of Kelly's system at all. Neither Kelly nor Jang teach or suggest anything about page records at all.

These features are similarly not taught or suggested by any other art of record, alone or in combination. Accordingly, the Applicant respectfully requests the Examiner to withdraw the § 103 rejections with respect to these claims.

Nor does Sinnarajah teach or suggest the claim limitations discussed above, alone or in combination with any other reference.

Accordingly, the Applicant respectfully requests the Examiner to withdraw the § 103 rejection with respect to these claims.

CONCLUSION

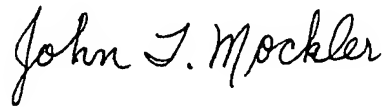
As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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